IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.569 OF 2007

Shri Bhujang Dagadu Khore ...Applicant.
V/s.
The State of Maharashtra ...Respondent.

Shri V.V.Purwant, adv. for the Applicant.
Smt.M.H.Mhatre, APP for the Respondent/State.

CORAM: J.H.BHATIA, J.
DATE : 9th March, 2007.

P.C.:

1. Heard Mr.Purwant, the learned counsel for the applicant and Mrs.Mhatre, the learned APP for the State. Perused the police papers.

2. The applicant, who is a retired Government servant, aged about 68 years, and a cultivator seeks bail in crime no.127 of 2006 registered with Vadgaon Nimbalkar Police Station, Baramati for the offences punishable under Sections 436, 302 and 307 of the I.P.C.

3. The prosecution case in brief, is that on 18-12-2006 at about 5.30 p.m. house/hut of one Abaso Bandal caught fire and the house was burnt. At that time his wife Sangita and son, aged about 2 months, were present. Child was sleeping inside the house, while the mother had gone to pluck the flowers, Abaso, his second

wife and two daughters had gone to field. Youngest daughter was playing outside the house. When the fire was noticed by Tulsabai, another wife of Abaso, she shouted. At that time two more persons namely Dattatray and Raju also came there and tried to extinguish the fire. At that time Sangita was shouting to rescue her child, who was inside the hut. Her husband entered in the hut to rescue child. In that attempt he also suffered some burn injuries. Child had suffered extensive burn injuries and was taken to the hospital. He died 1 and half month after the incident.

4. About this incident, first report was lodged by Tulsabai on 18-12-2006 at about 10.20 p.m. It was treated as an accidental fire. However on 25-12-2006 Sangita lodged a report alleging that at about 5 p.m. she had seen the present applicant going towards his field from behind her hut and aftter this fire, she had seen the present applicant running away. Admittedly there is some dispute between the parties about right of way claimed by the present applicant to go to his field as his field is behind the house of the said Abaso Bandal.

5. Neither in the first report, which was lodged by Tulsabai about 4-5 hours after the incident nor in

the statements of the persons, who had come to the spot immediately after the fire, there is mention of the presence of present applicant near the spot of incident. Except the statement of Sangita in her F.I.R., which was lodged seven days after the incident, there is no evidence against the present applicant . Investigation is already completed. Only the chargesheet is to be filed. Taking into consideration the circumstances, I find that the applicant, who is a old man aged about 68 years, deserves to be granted bail.

6. The applicant be released on his executing P.R.Bond of Rs.10,000/- with surety in the like amount with condition that he shall not tamper with the prosecution evidence and shall not misuse the bail.

7. Application stands disposed off.

(J.H.Bhatia,J.)